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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,435	01/06/2004	Lee Bolduc	9494.18510	3762
26308	7590	07/21/2009	EXAMINER	
RYAN KROMHOLZ & MANION, S.C. POST OFFICE BOX 26618 MILWAUKEE, WI 53226			SEVERSON, RYAN J	
ART UNIT	PAPER NUMBER			
	3731			
MAIL DATE	DELIVERY MODE			
07/21/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/752,435	<b>Applicant(s)</b> BOLDUC ET AL.
	<b>Examiner</b> Ryan J. Severson	<b>Art Unit</b> 3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 May 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 23,28 and 31-38 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 23,28 and 31-38 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/1449)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/12/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 23, 28, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parodi et al. (WO 00/16701) in view of Taheri et al. (5,591,195), Pinchuk (5,855,598) and Layne et al. (6,398,803).** Parodi reference discloses a fastener applier (50) is used to secure a prosthesis (100) using helical fasteners (80, see figure 6). Multiple fasteners are deployed (see figure 3) to secure the prosthesis at an aneurysm in an aorta (see figure 2 and page 9, lines 18-22).

4. However, Parodi does not disclose the prosthetic has a scaffold that supports the prosthetic material. Attention is drawn to Taheri reference, which teaches a prosthetic material can be supported by a scaffold (see figure 1) to provide greater resistance to

collapse of the vessel if the vessel becomes too weakened. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the scaffold of Taheri reference with the prosthetic material of Parodi reference to provide greater resistance to collapse of the vessel if the vessel becomes too weakened.

5. Regarding claim 23, the combination of Parodi and Taheri references does not disclose a first and second prosthesis telescopically positioned relative to one another. Attention is drawn to Pinchuk reference, which teaches it is known in the art to use a telescopically fitted multiple-component prosthesis (see figures 18-21) to allow the prosthesis to support the vessel from the neck region adjacent the renal arteries to the iliac arteries. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the prosthesis of the combination of Parodi and Taheri references a multiple-component prosthesis to provide for support of the iliac arteries as well as the aneurysm in the aorta.

6. Further regarding claim 23, the combination of Parodi, Taheri, and Pinchuk references does not disclose the graft material has a greater density at the ends than in the intermediate region. Attention is drawn to Layne reference, which teaches a graft may have more dense ends (because the intermediate region has openings 44) to increase the flexibility of the prosthesis in the intermediate region. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the intermediate region of the graft of the combination of Parodi, Taheri, and

Pinchuk references less dense in the manner taught by Layne reference to increase the flexibility of the prosthesis in the intermediate region.

**7. Claims 32, 33, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parodi et al. (WO 00/16701) in view of Taheri et al. (5,591,195) and Pinchuk (5,855,598).** The combination of Parodi, Taheri, and Pinchuk references discloses the limitations of the claims as set forth in paragraphs 3-5 above. Further, Taheri shows the scaffold structure is less dense (fewer struts per area) in the intermediate portion of the prosthesis (see figure 1).

**8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parodi et al. (WO 00/16701) in view of Taheri et al. (5,591,195), Pinchuk (5,855,598) and Layne et al. (6,398,803) as applied to claim 23 above, and further in view of Goicoechea et al. (5,609,627).** The combination of Parodi, Taheri, Pinchuk, and Layne references does not disclose the first trunk has fluoroscopic markers. Attention is drawn to Goicoechea reference, which teaches markers (see column 10, lines 53-63) on a stent to ensure proper placement of the stent in the vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included markers on the stent of the combination of Parodi, Taheri, Pinchuk, and Layne references in the manner taught by Goicoechea reference to ensure proper placement of the stent in the vessel.

9. **Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parodi et al. (WO 00/16701) in view of Taheri et al. (5,591,195) and Pinchuk (5,855,598) as applied to claim 32 above, and further in view of Goicoechea et al. (5,609,627).** The combination of Parodi, Taheri, and Pinchuk references does not disclose the first trunk has fluoroscopic markers. Attention is drawn to Goicoechea reference, which teaches markers (see column 10, lines 53-63) on a stent to ensure proper placement of the stent in the vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included markers on the stent of the combination of Parodi, Taheri, and Pinchuk references in the manner taught by Goicoechea reference to ensure proper placement of the stent in the vessel.

***Response to Arguments***

10. Applicant's arguments filed 5/12/2009 have been fully considered but they are not persuasive. Applicant argues the combination fails to disclose both the first and second trunks secured in the neck region in a telescopically fitted relationship. However, it is the Examiner's position that one of ordinary skill in the art would have recognized that the extent which the second trunk is fitted within the first trunk is obvious. Therefore one of ordinary skill in the art would have recognized that having the distal end of the first trunk and proximal end of the second trunk of the combination placed in the neck region and secured with fasteners is also obvious. Therefore, the rejection is maintained.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan J. Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. J. S./  
Examiner, Art Unit 3731  
7/17/09

/Anhtuan T. Nguyen/  
Supervisory Patent Examiner, Art Unit 3731  
7/18/09